

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Charles R. Scott Investigative Service )  
Tangible Personal Property Account No. 087188 ) Davidson County  
Tax year 2007 )

INITIAL DECISION AND ORDER

Statement of the Case

The Davidson County Assessor of Property ("Assessor") has valued the subject property for tax purposes as follows:

APPRAISAL	ASSESSMENT
\$71,500	\$21,450

On October 15, 2007, the State Board of Equalization ("State Board") received an appeal by the taxpayer. As indicated on the appeal form, this assessment was not appealed to the Metropolitan Board of Equalization ("county board") during its regular 2007 session.

The undersigned administrative judge conducted a hearing of this matter on January 16, 2008 in Nashville. In attendance at the hearing were the appellant, Charles R. Scott; attorney Jenny L. Hayes, of the Metropolitan Department of Law; and Kenneth Vinson, an employee of the Assessor's office.

Findings of Fact and Conclusions of Law

The appellant operates a small private investigations business at 3866 Dickerson Pike in Nashville. In 2007, as in the two preceding tax years, he failed to file the tangible personal property schedule required by Tenn. Code Ann. section 67-5-903 before the March 1 deadline. Consequently, the Assessor levied a "forced assessment" on the account in the amount shown above.<sup>1</sup> Notice of this assessment was mailed to the taxpayer at the above address on or about May 18, 2007.

Although the appellant did not recall having received the assessment change notice, he acknowledged that he may have "overlooked" it. Mr. Scott, who has what he described as a "heart condition," recalled that there had had been several deaths in his family during the past year. But, Mr. Scott added, his failure to take any action in this matter prior to receipt of the tax bill on the assessment in early October was probably "just an oversight."

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<sup>1</sup>Due apparently to the implementation of new guidelines for determining the amounts of forced assessments on the thousands of non-reporting accounts in Davidson County, the valuation of the subject property far exceeded the \$5,210 appraisal in tax year 2006. The tax bill on the current assessment amounted to \$866.59.



A taxpayer who is aggrieved by a forced assessment has a right of appeal to the local and state boards of equalization; however, Tenn. Code Ann. section 67-5-1412(b)(1) provides that:

The taxpayer or owner must first make complaint and appeal to the local board of equalization unless the taxpayer or owner has not been duly notified by the assessor of property of an increase in the taxpayer's or owner's assessment or change in classification as provided for in section 67-5-508.

The validity of a notice of forced assessment (or any other assessment change notice) does not depend on whether it is actually received by the taxpayer. Rather, under Tenn. Code Ann. section 67-5-903(c), such notice must merely be "addressed to the last known address of the taxpayer."

However, Tenn. Code Ann. section 67-5-1412(e) affords a taxpayer the right to hearing before the State Board to establish "reasonable cause" for failure to appeal to the local board of equalization. Historically, the Assessment Appeals Commission (appointed by the State Board pursuant to Tenn. Code Ann. section 67-5-1502) has construed this reasonable cause statute to require "a showing of circumstances beyond the taxpayer's reasonable control that prevent the taxpayer from appealing to the county board." Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992, Final Decision and Order, August 11, 1994), p. 2.

The appellant has commendably accepted personal responsibility for not making complaint to the county board during what must have been a rather difficult time in his life. That said, based on Mr. Scott's own testimony, the administrative judge cannot conclude that a "circumstance beyond the taxpayer's reasonable control" precluded him from pursuing that remedy within the allotted time. Particularly after having been forced assessed in tax years 2005 and 2006, the taxpayer must have known about the opportunity to contest such an assessment before the county board.<sup>2</sup> Though certainly unfortunate, the fact that the personal property actually used (or held for use) in the appellant's business may be worth much less than the Assessor's estimate of value does not justify the application of a more liberal "reasonable cause" standard. See ABG Caulking Contractors, Inc. (Davidson County, Tax Year 2004, Final Decision and Order, May 11, 2006).

#### Order

It is, therefore, ORDERED that this appeal be dismissed for lack of jurisdiction.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

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<sup>2</sup>Attached to the appeal form was a copy of the notice of the forced assessment of the subject property that was sent by the Assessor's office in 2006. That notice included a statement of the taxpayer's right to appeal the assessment to the county board until the indicated deadline.



1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8<sup>th</sup> day of February, 2008.

*Pete Loesch*

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PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: Charles R. Scott, Charles R. Scott Investigative Service  
Assistant Metropolitan Attorney Jenny L. Hayes  
Kenneth Vinson, Davidson County Assessor's Office

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